

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

SUSAN ADERHOLD,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-15-176-D
)	
BIOMET, INC., <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

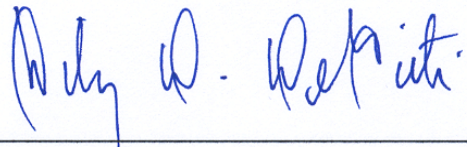
This matter comes before the Court for consideration of Plaintiff's Response to Order to Show Cause [Doc. No. 6], filed July 20, 2015. Plaintiff was directed to show cause why this action should not be dismissed pursuant to Fed. R. Civ. P. 4(m) for lack of service of process. *See* Order to Show Cause [Doc. No. 5].

Upon consideration, the Court finds that Plaintiff has not shown good cause for her failure to effect service of process in a timely manner. The court of appeals has not conclusively defined "good cause" for purposes of Rule 4, but has determined that the phrase should be read narrowly and "requires a greater showing than 'excusable neglect.'" *See Broitman v. Kirkland (In re Kirkland)*, 86 F.3d 172, 175 (10th Cir. 1996); *see also Putnam v. Morris*, 833 F.2d 903, 905 (10th Cir. 1987). Plaintiff states no reason, other than a mistake by her counsel, why no effort has been made to serve any defendant. The court of appeals has held that "inadvertence or mistake of counsel or ignorance of the rules" is insufficient. *See Putnam*, 833 F.2d at 905; *see also Kirkland*, 86 F.3d at 176.

Even absent a showing of good cause, the Court “must still consider whether a permissive extension of time may be warranted.” *See Espinoza v. United States*, 52 F.3d 838, 841 (10th Cir. 1995). The Court “may in its discretion either dismiss the case without prejudice or extend the time for service.” *Id.* Here, Plaintiff requests an additional 30 days for service. However, a 30-day extension would be insufficient because the 120-day time limit in this case expired June 19, 2015. Upon consideration, however, the Court will grant a short extension of time to effectuate service.

IT IS THEREFORE ORDERED that Plaintiff shall complete service of process on all defendants within 21 days from the date of this Order, or this action may be dismissed without prejudice for lack of service, and without further notice to Plaintiff.

IT IS SO ORDERED this 28th day of July, 2015.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE